

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to undercover law enforcement driver's licenses and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.189A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.189A and 321.196 and 6 CFR Section 37.11(i).

Purpose and Summary

The proposed rule making aligns the expiration date for a driver's license issued to an undercover law enforcement officer to the applicable expiration date listed in Iowa Code section 321.196 and amends the chapter's implementation sentence.

Currently under subrule 625.3(2), the Department issues driver's licenses to undercover law enforcement officers with a two-year expiration date. However, under Iowa Code section 321.196, a non-undercover law enforcement officer applicant may be issued a driver's license with up to an eight-year expiration date.

Federal REAL ID regulation, 6 CFR, Section 37.11(i), provides that states may issue REAL ID driver's licenses to undercover law enforcement officers and specifies that the REAL ID credentials issued to undercover law enforcement officers shall not be distinguishable from other REAL ID credentials issued by the state.

By restricting an applicant who would be otherwise eligible for an eight-year driver's license to a two-year license, just because the applicant is an undercover law enforcement officer, there is a risk of inadvertently identifying the law enforcement officer as undercover just by the credential expiration date. In most cases, an undercover law enforcement officer applying under non-covert status would typically be eligible for an eight-year credential.

By amending this subrule, the Department will bring the credential issuance length in line with other driver's licenses issued to non-undercover law enforcement applicants and avoid the risk of identifying the credential holder as an undercover law enforcement officer just by virtue of the expiration date listed on the credential.

In accordance with Iowa Code section 321.189A, the Department consulted with the Department of Public Safety on this rule making and it was supportive of these proposed amendments.

Fiscal Impact

In FY 2019, the Department issued approximately 24 driver's licenses to undercover law enforcement officers. Each of these licenses has a two-year expiration date. If the licenses were increased to an eight-year expiration date at a cost of \$4 per year of license validity, the Department estimates the proposed rule making will result in approximately \$768 (\$32 x 24) being deposited annually into the Statutory Allocations Fund.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 18, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 20, 2020
10 to 11 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 625.3(2) as follows:

625.3(2) ~~A two-year~~ The license will be issued with an applicable expiration date as provided in Iowa Code section 321.196. The applicant must pay all fees and meet all requirements for the class of

license applied for, except that rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR ~~Part 37~~ 37.11.

ITEM 2. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3, ~~and~~ 321.189A ~~and~~, 321.196
and 6 CFR Part 37.